

NOTICE OF FORECLOSURE SALE

July 12, 2024

FILED FOR RECORD
COLORADO COUNTY, TX

2024 JUL 15 PM 2: 25

KIMBERLY MENKE
COUNTY CLERK *DH*

Deed of Trust ("Deed of Trust"):

Dated: January 31, 2023

Grantor: Joseph Papa Gitau

Trustee: Liang Gao

Lender: Hawthorne Land, LLC

Recorded in: Instrument No. 0567, Volume 1026, Page 241 of the real property records of Colorado County, Texas

Legal Description: Being a 10.731 acre tract situated in the J.M. Thomas Survey, Abstract Number 565, and the C.T.R.R. Co. Survey, Abstract Number 153, Colorado County, Texas, being a portion of that same called 236.678-acre tract described as "Second Tract" in instrument to Robert L. Cook and Patricia Ann Cook, recorded in Volume 916, Page 649, of the Official Public Records of Colorado County, Texas (O.P.R.C.C.T.), said 10.731 acre tract being more particularly described by metes and bounds in the attached Exhibit.

Secures: Promissory Note ("Note") in the original principal amount of \$258,275.00, executed by Joseph Papa Gitau ("Borrower") and payable to the order of Lender

Assignment: The Note and the liens and security interests of the Deed of Trust were transferred and assigned to **Hawthorne Interests, LLC** ("Beneficiary") by an instrument dated January 31, 2023, recorded in Instrument No. 1398, Volume 1030, Page 875 of the real property records of Colorado County, Texas

Substitute Trustee: Debby Jurasek, Megan Randle, Ebbie Murphy, or David Garvin

Substitute Trustee's Address: c/o Foreclosure Services LLC
8101 Boat Club Road, Suite 320
Fort Worth, Texas, 76179

Foreclosure Sale:

- Date:** Tuesday, August 6, 2024
- Time:** The sale of the Property will be held between the hours of 10:00 A.M. and 4:00 P.M. local time; the earliest time at which the Foreclosure Sale will begin is 1:00 P.M. and not later than three hours thereafter.
- Place:** Colorado County Courthouse, 400 Spring St., Columbus, Texas 78934 or in the area designated by the Commissioner's Court, pursuant to Section 51.002 of the Texas Property Code.
- Terms of Sale:** The Foreclosure Sale will be conducted as a public auction and the Property will be sold to the highest bidder for cash, except that Hawthorne Interests, LLC's bid may be by credit against the indebtedness secured by the lien of the Deed of Trust.

Default has occurred in the payment of the Note and in the performance of the obligations of the Deed of Trust. Because of that default, Hawthorne Interests, LLC, the owner and holder of the Note, has requested Substitute Trustee to sell the Property.

The Deed of Trust may encumber both real and personal property. Formal notice is hereby given of Hawthorne Interests, LLC's election to proceed against and sell both the real property and any personal property described in the Deed of Trust in accordance with Hawthorne Interests, LLC's rights and remedies under the Deed of Trust and section 9.604(a) of the Texas Business and Commerce Code.

Therefore, notice is given that on and at the Date, Time, and Place for the Foreclosure Sale described above, Substitute Trustee will sell the Property in accordance with the Terms of Sale described above, the Deed of Trust, and applicable Texas law.

If Hawthorne Interests, LLC passes the Foreclosure Sale, notice of the date of any rescheduled foreclosure sale will be reposted and refiled in accordance with the posting and filing requirements of the Deed of Trust and the Texas Property Code.

The Foreclosure Sale will be made expressly subject to any title matters set forth in the Deed of Trust, but prospective bidders are reminded that by law the Foreclosure Sale will necessarily be made subject to all prior matters of record affecting the Property, if any, to the extent that they remain in force and effect and have not been subordinated to the Deed of Trust. For the avoidance of doubt, the Foreclosure Sale will not cover any part of the Property that has been released of public record from the lien and/or security interest of the Deed of Trust by Hawthorne Interests, LLC. Prospective bidders are strongly urged to examine the applicable property records to determine the nature and extent of such matters, if any.

Pursuant to section 51.009 of the Texas Property Code, the Property will be sold "AS IS," without any expressed or implied warranties, except as to the warranties (if any) provided for under the Deed of Trust. Prospective bidders are advised to conduct an independent investigation of the nature and physical condition of the Property.

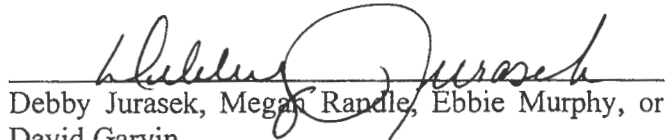
Pursuant to section 51.0075(a) of the Texas Property Code, Substitute Trustee reserves the right to set further reasonable conditions for conducting the Foreclosure Sale. Any such further conditions shall be announced before bidding is opened for the first sale of the day held by Substitute Trustee.

Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately.

THIS INSTRUMENT APPOINTS THE SUBSTITUTE TRUSTEE(S) IDENTIFIED TO SELL THE PROPERTY DESCRIBED IN THE SECURITY INSTRUMENT IDENTIFIED IN THIS NOTICE OF SALE. THE PERSON SIGNING THIS NOTICE IS THE ATTORNEY OR AUTHORIZED AGENT OF THE MORTGAGEE OR MORTGAGE SERVICER.



Margaret H. Banahan
Texas Bar No. 24078188
Veronica A. Martinez
Texas Bar No. 24102149
R. Alex Weatherford
Texas Bar No. 24079553
Banahan Martinez Weatherford, PLLC
1400 Broadfield Blvd., Suite 105
Houston, Texas 77084
Telephone (281) 394-3122
Telecopier (281) 940-2743
Attorney for Lender



Debby Jurasek, Megan Randle, Ebbie Murphy, or
David Garvin
Substitute Trustee
c/o Foreclosure Services LLC
8101 Boat Club Road, Suite 320
Fort Worth, Texas 76179



TEXAS PROFESSIONAL SURVEYING, LLC.

3032 N. FRAZIER STREET, CONROE, TEXAS 77303
(936)756-7447 FAX (936)756-7448
FIRM REGISTRATION No. 100834-00

FIELD NOTE DESCRIPTION

TRACT 41

10.731 ACRES

IN THE J.M. THOMAS SURVEY, ABSTRACT NUMBER 565,
AND THE C.T. RR. CO. SURVEY, ABSTRACT NUMBER 153,
COLORADO COUNTY, TEXAS

BEING a 10.731 acre tract situated in the J.M. Thomas Survey, Abstract Number 565, and the C.T. RR. Co. Survey, Abstract Number 153, Colorado County, Texas, being a portion of that same called 236.678 acre tract described as "Second Tract" in instrument to Robert L. Cook and Patricia Ann Cook, recorded in Volume 916, Page 649, of the Official Public Records of Colorado County, Texas (O.P.R.C.C.T.), said 10.731 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod with cap stamped "TPS 100834-00" set in a curve to the right in the northerly right-of-way of Farm to Market Road 1093 (FM 1093) (variable width right-of-way), the southerly line of said 236.678 acre tract, being the southeasterly corner of the herein described 10.731 acre tract, from which a 5/8 inch iron rod found for reference bears Northwesterly, 839.66 feet, with the arc of said curve to the right, said **POINT OF BEGINNING** having a Texas State Plane Coordinate value of **N: 13,771,598.81, E: 2,824,134.68**, Texas South Central Zone (4204), grid measurements;

THENCE severing, over and across said 236.678 acre tract the following three (3) courses and distances:

1. North 04°51'44" West, 1,267.84 feet, to a 1/2 inch iron rod with cap stamped "TPS 100834-00" set for corner, being the northwesterly corner of the herein described 10.731 acre tract;
2. North 55°47'44" East, 209.76 feet, to a 1/2 inch iron rod with cap stamped "TPS 100834-00" set for corner, being the northeasterly corner of the herein described 10.731 acre tract;
3. South 19°12'47" East, 1,344.32 feet, to a 1/2 inch iron rod with cap stamped "TPS 100834-00" set in the southerly line of said 236.678 acre tract, the northerly right-of-way of said FM 1093, being the southeasterly corner of the herein described 10.731 acre tract, from which a 5/8 inch iron rod with cap found for reference bears North 74°59'41" East, 1,925.91 feet;

THENCE South 74°59'41" West, 329.67 feet, with the southerly line of said 236.678 acre tract, the northerly right-of-way of said FM 1093, to a 1/2 inch iron rod with cap found for the beginning of said curve to the right, being an external corner of the herein described 10.731 acre tract;

THENCE Southwesterly, 191.85 feet, with the arc of said curve to the right having a radius of 2,814.93 feet, a central angle of 03°54'18", and a chord that bears South 82°05'21" West, 191.81 feet, to the **POINT OF BEGINNING**;

CONTAINING a computed area of 10.731 acres of land within this Field Note Description.

This Field Note Description was prepared from a survey performed on the ground on January 21, 2022, by Texas Professional Surveying, LLC., Registered Professional Land Surveyors and is referenced to Survey Drawing Project Number 22704_TR 41.

Bearings and distances recited herein are based on GPS observations and are referenced to the North American Datum of 1983 (NAD83), Texas State Plane Coordinate System, South Central Zone (4204), grid measurements.

June 17, 2022
Date



Thomas A. McIntyre
R.P.L.S. No. 6921



SYMBOL LEGEND

- EDGE OF ASPHALT
- FND SURVEY MONUMENT
- SET SURVEY MONUMENT



**J. M. THOMAS SURVEY
ABSTRACT No. 565**

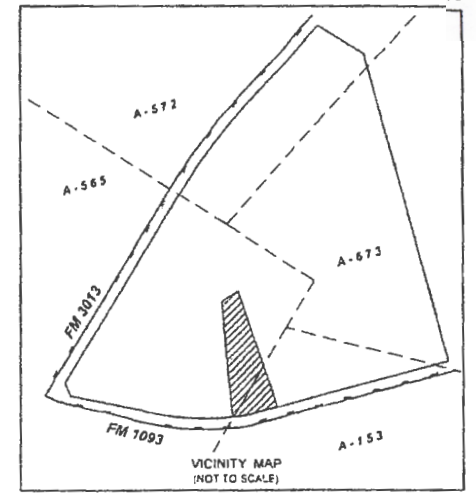
REMAINDER OF
ROBERT L. COOK AND
PATRICIA ANN COOK
CALLED 236 678 ACRES
"SECOND TRACT"
VOL 916, PG. 649
O.P.R.C.C.T.

**TRACT 41
10.731 ACRES**
PORTION OF
ROBERT L. COOK AND
PATRICIA ANN COOK
CALLED 236 678 ACRES
"SECOND TRACT"
VOL 916, PG. 649
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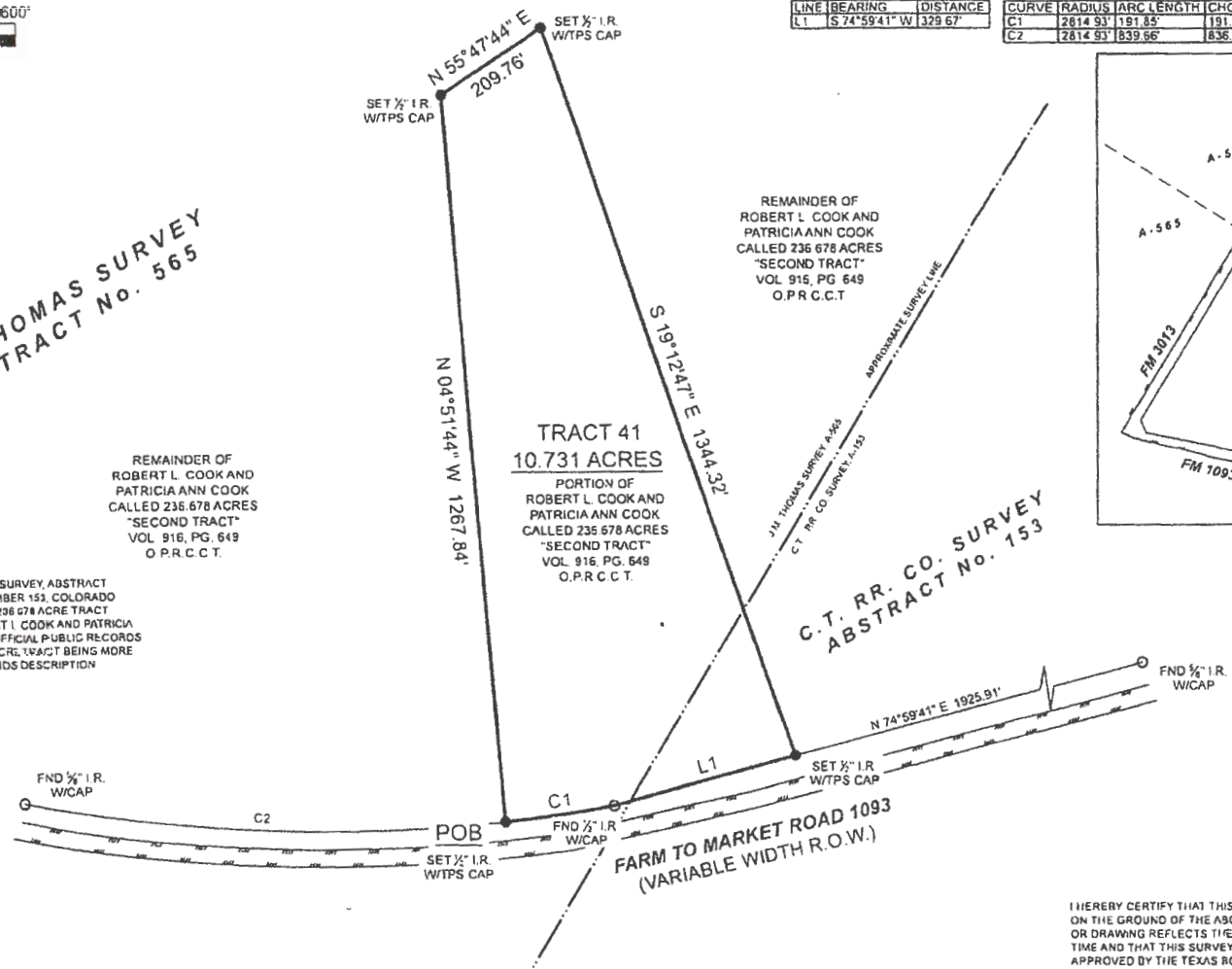
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**C.T. RR. CO. SURVEY
ABSTRACT No. 153**

LINE	BEARING	DISTANCE	CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
L1	S 74°59'41" W	329.67'	C1	2814.93'	191.85'	191.81'	S 82°05'21" W	3°54'18"
			C2	2814.93'	839.66'	836.55'	N 87°24'48" W	17°05'26"



BOUNDARY SURVEY
BEING A 10.731 ACRE TRACT SITUATED IN THE J.M. THOMAS SURVEY, ABSTRACT NUMBER 565, AND THE C.T. RR. CO. SURVEY, ABSTRACT NUMBER 153, COLORADO COUNTY, TEXAS, BEING A PORTION OF THAT SAME CALLED 236 678 ACRE TRACT DESCRIBED AS "SECOND TRACT" IN INSTRUMENT TO ROBERT L. COOK AND PATRICIA ANN COOK, RECORDED IN VOLUME 916, PAGE 649, OF THE OFFICIAL PUBLIC RECORDS OF COLORADO COUNTY, TEXAS (O.P.R.C.C.T.). SAID 10.731 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY ATTACHED METES AND SOUNDS DESCRIPTION



PROJECT NUMBER	22704 TR 41
DATE	01/21/2022
DRAWN BY	LG
CHECKED BY	SL
FIELD CREW	GG
REVISION 1	
REVISION 2	
REVISION 3	
REVISION 4	

GENERAL NOTES:

- 1) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A CURRENT TITLE REPORT. SURVEYOR DID NOT ABSTRACT TITLE AND DOES NOT CERTIFY TO EASEMENTS OR RESTRICTIONS NOT SHOWN. CHECK WITH YOUR LOCAL GOVERNING AGENCIES FOR ANY ADDITIONAL EASEMENTS, BUILDING LINES OR OTHER RESTRICTIONS NOT REFLECTED ON SURVEY.

NO PORTION OF THIS PROPERTY APPEARS TO LIE WITHIN THE 100 YEAR FLOODPLAIN PER GRAPHIC SCALING OF COMMUNITY PANEL NO. 49089C04000 HAVING AN EFFECTIVE DATE OF 02/04/2011.

BASIS OF BEARINGS: BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON GPS OBSERVATIONS AND ARE REFERENCED TO THE NORTH AMERICAN DATUM OF 1983 (NAD83), TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (TXSC-4204), GRID MEASUREMENTS.

I HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE UNDER MY SUPERVISION ON THE GROUND OF THE ABOVE DESCRIBED PROPERTY, AND THAT THE ABOVE PLAN OR DRAWING REFLECTS THE FINDINGS ON THE GROUND OF THE PROPERTY AT THIS TIME AND THAT THIS SURVEY MEETS THE MINIMUM STANDARDS OF PRACTICE AS APPROVED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING.

TEXAS
PROFESSIONAL
SURVEYING, L.L.C.
3012 N. FRAZIER STREET - CONROE, TX 77385
(281) 756-7411 - FAX (281) 756-7448
WWW.SURVEYINGTEXAS.COM
PHM REGISTRATION NO. 102934-00

PURCHASER _____ FM 1093 EAGLE LAKE TK. 77434
ADDRESS _____ J.M. THOMAS, A-565 C 1, RR. CO. A-153
SURVEY _____ 10.731 ACRES
AREA _____
COUNTY _____ COLORADO

Thomas A. McIntyre
Registered Professional Land Surveyor No. 6921

